

Jamie Wright, Esq., Chair
Panel A

BEFORE THE
MEDICAL QUALITY HEARING PANEL
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ALISON BEVAN, M.D.
Paradise, California

Physician's and Surgeon's
Certificate No. A 66187

OAH No. 2016040548

MB No. 800-2014-008590

Respondent.

PROPOSED DECISION

This matter was heard before Administrative Law Judge Erin R. Koch-Goodman, Office of Administrative Hearings, State of California, on October 17, 18, and 19, 2016, in Sacramento, California.

Jannsen Tan, Deputy Attorney General, appeared on behalf of Kimberly Kirchmeyer (complainant), Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.

John L. Fleer, Attorney at Law, appeared on behalf of Alison Bevan, M.D. (respondent), who also appeared.

Evidence was heard, the record was closed, and the matter was submitted for decision on October 19, 2016.

FACTUAL FINDINGS

1. On August 7, 1998, the Board issued respondent Physician's and Surgeon's Certificate No. A 66187. Unless renewed or revoked, the license will expire on November 30, 2017.

2. On November 25, 2015, complainant, in her official capacity, made and served this Accusation seeking discipline against respondent's license, alleging that on July 25, 2014, respondent used alcohol in a manner as to be dangerous to herself and others. On December 4, 2015, respondent filed a Notice of Defense and request for hearing.

Dangerous Conduct

3. All events occurred on July 25, 2014. Suffering from insomnia, at approximately 2:00 a.m., respondent drank half a bottle of wine to help her sleep. Prompted by anxiety, between 4:00 a.m. and 5:00 a.m., respondent took two Xanax pills; first one pill, and then a second pill later.

4. At approximately 8:00 a.m., respondent drove to Mercy San Juan Hospital (Mercy), where she was employed as a locum tenes Radiology Oncologist, at the Radiology Oncology Center (ROC). Respondent's driving caught the attention of Amber Quezada, an administrative supervisor at Mercy, who was driving to work on the same route. Ms. Quezada began actively following respondent. She watched respondent swerve between lanes and block traffic by driving down the middle of both lanes on Van Meran Lane. At the red light at Van Meran Lane and Greenback Boulevard, Ms. Quezada stopped next to respondent, rolled down her window, and honked her car horn, trying to get respondent's attention. Respondent did not react; instead, Ms. Quezada saw respondent nodding off at the wheel (i.e. bobbing her head down and up with her eyes barely open). At Coyle Avenue, respondent swerved to turn too early, corrected, and then turned into the Mercy parking garage and drove up to the third floor. Respondent pulled into a parking space and bumped the car in front of her.

5. Ms. Quezada parked her vehicle and walked over to respondent. Ms. Quezada asked respondent if she needed help; respondent said no. Ms. Quezada asked respondent where she was going; respondent said, "Dr. Wagner, in the ROC." Ms. Quezada observed respondent remove a white doctor's coat from the backseat of her car. Ms. Quezada asked respondent, "Are you a doctor?" Respondent said yes. Ms. Quezada asked: "Do you want me to escort you [to the ROC]?" Respondent said no. Ms. Quezada smelled alcohol coming from respondent. Respondent began walking towards the ROC and Ms. Quezada followed. Ms. Quezada observed respondent's movements to be "sloppy," noting respondent "struggled with her belongings."

6. Inside the ROC, respondent walked passed the front desk, turned left, and then entered the second door on the right. Ms. Quezada followed respondent to her office door, and then returned to the front desk to find Registered Nurse (RN) Jean Heller. Ms. Quezada reported to RN Heller that she was worried about respondent and needed a telephone. Ms. Quezada telephoned Brian Ivie, President/CEO of Mercy and reported respondent's behavior. At the same time, RN Heller walked to respondent's office and asked her what was going on. RN Heller observed respondent speak slowly, slur her speech, and suddenly stop talking mid-sentence. RN Heller asked respondent what she had consumed and respondent said, "two Xanax." RN Heller went back to the front desk and telephoned her supervisor, Mike Matuska, to report the situation. Ms. Quezada and RN Heller then reentered respondent's office. Ms. Quezada asked respondent, "Do you have patients today?" Respondent said, "Yes, at 10:30 a.m." Ms. Quezada and RN Heller then returned to the front desk.

7. Mr. Matuska arrived at the ROC and found Ms. Quezada and RN Heller at the front desk. Ms. Quezada reported her observations to Mr. Matuska and then left the ROC. Then, Adam Berman, Vice President, Mercy Medical Group (MMG), arrived at the ROC and asked Mr. Matuska to sit in with him while he spoke with respondent; Mr. Matuska agreed. Respondent denied consuming alcohol that morning, and reported that she had no patients scheduled that day. Mr. Berman requested respondent submit to a physical examination and a drug test; respondent refused.

8. Mr. Berman stepped out to speak with Mr. Matuska, in private, and respondent collected her things and walked out of the ROC towards the parking garage and her vehicle. Mr. Berman ran after respondent. He told respondent that she had to submit to an examination if she wanted to work at Mercy again. Respondent continued to walk towards the parking garage and her vehicle. Mr. Berman then told respondent that he would call the police if she insisted on driving in her condition. Respondent stopped and allowed Mr. Berman to call a taxi for her. Mr. Berman then informed respondent that because of her actions, Mercy would have to end her contract. Mr. Berman collected respondent's employee badge and key and respondent left Mercy in a taxi.

Medical Evidence

BOARD EXPERT - BARBARA WEISSMAN, M.D., PH.D., PSYCHIATRIST

9. On June 8, 2015, the Board retained Barbara Weissman, M.D., Ph.D., Psychiatrist, to conduct a mental health examination of respondent. The Board tasked Dr. Weissman to determine whether there is any condition present which could interfere with respondent's ability to safely practice medicine.

10. Dr. Weissman is a highly qualified psychiatrist. She completed her undergraduate education in Biological Sciences and graduate studies in Industrial Engineering in 1985, at Stanford University, before completing her medical degree from Harvard University in 1989. Dr. Weissman then completed a one-year internship in Internal Medicine at Children's Hospital of San Francisco, followed by a two-year fellowship in Radiology Oncology at the University of San Francisco, and then a two-year residency in Psychiatry and a one-year residency in Neuropsychiatry at the Stanford University School of Medicine. She is a Diplomate of the National Board of Medical Examiners, Board Certified by the American Board of Psychiatry and Neurology, Certified for Evaluation of Health Care Professionals by the California Public Protection and Physician Health, Inc., and licensed to practice medicine in California since 1991. Since 1993, Dr. Weissman has worked as a psychiatrist for various California counties. She has reviewed approximately 20 cases for the Board since 2009, and has testified once before in a Board administrative hearing. She has co-authored 16 articles in radiology and psychiatry and has lectured and presented in the area of psychiatry more than 30 times.

11. The Board provided the following information to Dr. Weissman for her consideration: the draft investigation report, with attachments including the 805 Report,

multiple CURES reports, the Mercy Incident Report, Ms. Quezada's statement, Mr. Matuska's notes, a compact disk of the Board's interview of respondent, drug test results from April 9, 2015, and respondent's medical records, both mental and physical. Dr. Weissman reviewed the information provided to her by the Board, and on July 23, 2015, she interviewed respondent for one to one and one-half hours and administered three psychological tests: the Montreal Cognitive Assessment (MOCA), Michigan Alcoholism Screening Test (MAST), and the Generalized Anxiety Disorder (GAD) screening test. Respondent tested in the normal range on the MOCA, with a score of 30/30, and positive on the MAST, with a score of 17 (a score above six (6) indicates a risk for alcoholism).

12. On August 28, 2015, Dr. Weissman wrote a report. She testified at hearing consistent with her report. Dr. Weissman diagnosed respondent with Alcohol Use Disorder, Moderate, in Sustained Remission, finding respondent had taken alcohol longer than she meant to, and in an amount greater than she originally set out to consume, with an inability to stop or complete her work responsibilities due to alcohol, as well as used alcohol when it put her and others in danger. Dr. Weissman also diagnosed respondent with Benzodiazepine Use Disorder, Moderate, in Sustained Remission, finding respondent had taken Xanax longer than she meant to, and in an amount greater than she originally set out to consume, with an inability to stop or complete her work responsibilities due to Xanax, as well as used Xanax when it put her and others in danger. Finally, Dr. Weissman diagnosed respondent with Generalized Anxiety Disorder, because respondent described excessive worry, restlessness, problems concentrating, irritability, and trouble sleeping, but all of which respond to respondent's current medication. Dr. Weissman noted that respondent has not consumed alcohol since July 2014, except for a sip on New Year's Eve, December 31, 2014, and no longer takes Xanax, but is using Klonopin and Ambien for her anxiety, without any adverse symptomology. In addition, respondent is currently engaged in individual counseling for her conditions, and her conditions are largely in remission. Based upon the above, Dr. Weissman formulated the following conclusions:

I do not see signs that her ability to practice medicine safely at this time is impaired or that her diagnoses at this time impact her ability to engage in the practice of medicine. If she were to relapse, however, she could quickly become impaired with regards to the practice of medicine. [¶] . . . [¶]. There is still some risk of relapse as she is early in her recovery, but it is my opinion that with continued treatment and monitoring she should be able to successfully continue in the practice of medicine.

RESPONDENT'S TREATING DOCTOR-- DIANE HUISINGA, PH.D., PSYCHOLOGIST

13. Respondent offered the opinion of Diane Huisinga, Ph.D., Licensed Psychologist. Dr. Huisinga is respondent's treating psychologist. Dr. Huisinga completed her Bachelor of Arts in 1965 from Southern Illinois University, and her Master of Arts and Doctorate of Philosophy from Michigan State University, in 1970 and 1972, respectively. From

1972 through 1999, Dr. Huisinga was a Professor of Psychology at New Jersey City University. From 1999 through 2001, Dr. Huisinga was an adjunct Professor of Psychology for Sierra College and then Sacramento City College. In addition, beginning in 1977, to the present, Dr. Huisinga has treated private patients, individuals, couples, and groups, in communication and relationship issues, sexual problems, stress reduction, depression, anxiety, and character disorders. Dr. Huisinga is not an expert in alcohol and substance abuse and does not typically treat substance abuse disorders, having treated five to fifteen in her career. She has been licensed to practice in California since 1997. She is published and has made presentations to national and regional groups on psychology. In 1992, she received a Fulbright Lectureship to teach psychology in Croatia for one year.

14. Dr. Huisinga began treating respondent on October 15, 2015. She conducted 25 sessions with respondent in 2015, and 10 sessions in 2016, covering anxiety and depression. Dr. Huisinga's opinions are based solely on the information she has gathered from respondent; she has not reviewed any documentation from respondent's previous therapist or medical providers. In sum, Dr. Huisinga does not believe that respondent is a danger to her patients, finding: "She had a substance abuse disorder; she currently has no problems with addiction." In addition, Dr. Huisinga does not believe respondent is in need of monitoring. For respondent, Dr. Huisinga opines that monitoring would consume a lot of her time and energy, and focus respondent on a shameful subject, possibly leading her to more depression.

Respondent's Testimony

15. Respondent is 51 years old. She is single and lives in Paradise, California. Respondent completed her Bachelor of Arts in Chemistry in 1989 at the University of Vermont. She then completed her Doctorate of Philosophy and Doctorate of Medicine in 1997 at Stanford University. After graduation, respondent finished a one-year internship in Internal Medicine, a two-year residency in Radiation Oncology and then two years as the Chief Resident in Radiology Oncology at the Stanford University Medical Center. She is Board Certified by the American Board of Radiology and has been licensed to practice medicine in California since 1998. From 2002 to 2008, she was a Professor of Radiology Oncology at the University of California, San Francisco. From 2008 to 2014, respondent was a Staff Physician at the Radiologic Associates of Sacramento (RAS) Medical Group. Respondent has co-authored 11 articles and presented in the area of radiology oncology a dozen times.

16. Respondent next worked at Mercy. At Mercy, respondent was a locum tenes physician, contracted from June 2, 2014 through July 31, 2014. Based on her behavior, on July 25, 2014, respondent's hospital privileges were suspended, and her contract was terminated the same day. Respondent described her time at Mercy to be "beyond stressful." Prior to accepting the position, respondent learned that Mercy was constructing the ROC, but it was not yet fully operational. Respondent was informed that she would be the sole doctor at the ROC, while it was being built, with occasional patient care. However, once there, patient numbers increased, there were no oncology trained RNs, no electronic medical records training for staff, there was spotty coverage for the radiation machines, substandard

support staff to safely see patients, and no physics¹ coverage. Respondent felt that she was “in over her head” trying to manage everything. As a result, respondent became worried and anxious and developed insomnia. She began drinking alcohol to help her sleep. The last two weeks at the ROC were the worst for respondent. She believes she only slept an hour a night during her last week at the ROC.

17. On July 25, 2014, respondent did not believe she was impaired when she drove to work. She felt fatigued and distressed, but not impaired. On the night of July 24, 2014, respondent was very worried and she could not sleep. She drank a half a bottle of wine at 1:00 or 2:00 a.m. and took two Xanax between 4:00 and 5:00 a.m. She remembers leaving the house, driving to work and into the parking structure. She remembers someone banging on her driver’s side window and yelling at her; respondent later learned the person was Ms. Quezada. Respondent remembers collecting her bags from her car and walking to the ROC; Ms. Quezada followed her. Respondent remembers someone coming into her office with files, then Mr. Matsuka came into her office and said, “Go now. I called you a taxi.” Respondent remembers leaving Mercy in a taxi. When she got home, she was in shock. She knew she required medical attention, more specifically, a psychological evaluation. In retrospect, respondent sees that she was impaired. She was under the influence of alcohol and Xanax and her behavior was not acceptable. She never went back to Mercy.

18. Respondent testified that the events of July 25, 2014, were a “wake-up call.” She got a recommendation from friends and began to see Eugene Fealk, D.O., psychotherapist, one week later. Dr. Fealk discontinued Xanax, prescribed Klonopin, and directed respondent not to drink alcohol. They met for several individual sessions. In addition, she attended mindfulness classes and Alcoholics Anonymous (AA) meetings. Respondent admits that she does not agree with everything about AA, but she has a sponsor and is working the steps. She is currently on step six. She sought out a less stressful, part-time job, working two days a week in a small practice with a partner, Steven Wahlen, M.D. She changed her social behavior, avoiding parties where alcohol is served. She exercises and meditates, and she developed a support network, by reaching out to her friends, family, and neighbors.

19. Respondent admitted that she may have had a sip of alcohol on New Year’s Eve, December 31, 2014, to celebrate her father’s anniversary. She remembers bringing the champagne/wine glass to her lips, but cannot remember if she actually took a sip. Respondent did not call her sponsor before she took the sip of alcohol, or after. Respondent acknowledged that a sip of alcohol violates the rules of AA. When asked her sobriety date, she half-heartedly identified January 2, 2015. She acknowledged that most AA participants identify their sobriety date first, when they speak at meetings, because the date connotes the beginning of your new life, but speaking at meetings is voluntary. Notwithstanding the above, respondent denies having any problems maintaining her sobriety. She is sober. She

¹ Medical physics deals chiefly with the use of ionizing or non-ionizing radiation in the diagnosis and treatment of disease. In radiation therapy, ionizing radiation is used to treat a wide variety of cancers through external-beam radiotherapy or brachytherapy.

believes AA is important and she takes it seriously. She takes each day, each week, and each month as they come. Today, respondent believes she has insight into her health conditions, her use of alcohol and prescription drugs, including recognizing that the substances in combination lead to bad results, and she does not believe that she needs to be monitored to stay the course.

20. Prior to 2013, respondent was a social drinker, drinking occasionally with dinner, and she had never used benzodiazepines. Respondent has always struggled with anxiety, but in 2013 and 2014, her symptoms were particularly bad. She ended a long-term relationship and then discovered that she was pregnant. She miscarried and became depressed. In July 2013, her primary care doctor prescribed Xanax for the physical symptoms of anxiety, but she did not take it on a regular basis. In addition, RAS dissolved and she was without a job. She then took the contract position at Mercy and things spiraled out of control from there.

21. Respondent believes that she has been open and honest with the Board. The Board contacted her for an interview and she complied. She freely released her medical records and agreed to an evaluation by a psychiatrist, chosen by the Board. Respondent did not know if the Board would file an Accusation against her license, so she did not inform her employer until such time. After the Accusation was filed, respondent informed her current employer, Feather River Hospital (Feather River). After Feather River learned of the Accusation, respondent was referred to the hospital's Well-Being Committee for monitoring. As a result of the Accusation, Blue Shield insurance will not allow her to be a provider; her colleagues at Feather River wrote letters of support to Blue Shield, but to no avail. Respondent believes probationary status will lead to more practical impairments to her practice.

Character References

22. Respondent offered four character witnesses, who testified to respondent's personal integrity and sobriety, as well as her work caliber and ethos. Sam Mazj, M.D., is an Oncologist and Hematologist at Feather River. He is the Chief of Staff, elect, Chair of the Credentialing Committee, and Medical Director of the Cancer Oncology Center. Dr. Mazj supervises respondent and works with her on a daily basis. He knows of respondent's July 25, 2014 incident, after having read the Accusation, but he does not know all of the details. Dr. Mazj described respondent as "amazing; the best radiology oncologist I have ever dealt with; excellent to work with; stays late to get the job done; well regarded by colleagues; [and] patients are pleased to see her." Dr. Mazj has "never seen anything from Dr. Bevan to cause concern." Dr. Mazj explained that he was unaware of the July 25, 2014 incident until the Accusation was filed by the Board and delivered to Feather River. The Accusation was reviewed by the Credentialing Committee, who referred Dr. Bevan to the Well-Being Committee for monitoring, which is still in effect today. Dr. Mazj relies on the Board to ensure that medical providers are safe to practice and will adhere to the decision of the Board in this case.

23. Today, Dr. Wahlen is a Radiology Oncologist at Feather River, and has been a colleague of respondent's since December 2014. Dr. Whalen reflected on respondent's competency as follows: he has "no questions related to Dr. Bevan's knowledge, decision-making, personality or character, [or] her work ethic." She is "on-time, stays late, [and] offers to assist colleagues." Dr. Wahlen acknowledged that it is "stressful to tell patients they have cancer." [but] Dr. Bevan has never lost her composure [and] she remains calm with patients." He knows of respondent's July 25, 2014 incident, because respondent told him about it; even still, the incident does not change his opinion of her. Dr. Wahlen believes "the July 25, 2014 incident was not in character for Dr. Bevan [and] it was a one-time incident."

24. Susan Mallory, M.D., is a Pediatrician at Feather River. She is the Chair of the Well-being Committee. Respondent was referred to the Well-Being Committee in early 2016, for monitoring until the Board makes a decision. The Committee meets with respondent quarterly. They have reviewed respondent's performance evaluations, as well as quarterly reports from her therapist. Dr. Mallory reported that respondent is "well-liked, with no patient complaints, and no [workplace] problems reported." The Committee has reviewed the Accusation. Dr. Mallory understands the underlying facts to be as follows: respondent had wine with dinner, and then took her prescribed anti-anxiety medications before going to bed on July 24, 2014; when respondent went to work the next morning, the alcohol and medication had not sufficiently worn off. Dr. Mallory noted that: "Dr. Bevan had the insight and realized she could not see patients that day," so she went home.

25. Earnest Young, a Certified Medical Dosimetrist and friend to respondent, also testified on her behalf. Mr. Young has known respondent since 2008, when they both worked at RAS. They have developed a strong friendship since then. In 2011, respondent's vacation plans fell apart, and Mr. Young and his wife invited respondent to travel with them on a road trip; staying together in a 24-foot motorhome for several weeks, driving to Yellowstone National Park, into Montana and Canada. In 2013, Mr. and Mrs. Young helped respondent deal with the dissolution of a long-term relationship, a pregnancy, and a miscarriage.

When RAS dissolved, respondent went to work for Mercy, and Mr. Young did not see respondent very often. He did counsel respondent not to stay at Mercy, because of the disorganization and lack of institutional support there. He knew respondent was stressed and depressed, but he was not aware respondent was drinking alcohol or had a substance abuse problem. He has never seen respondent impaired. On or about July 26, 2014, respondent telephoned Mr. Young and asked for help; respondent drove to Mr. Young's home and spent the night. Respondent told Mr. Young what had happened and reported to Mr. Young that she was not going to drink again. Mr. Young admits being surprised by respondent's alcohol and drug use, because he had never seen her impaired and always considered her safe to practice.

Since December 2014, when she became employed at Feather River, respondent has stayed with Mr. and Mrs. Young, in Wheatland, three nights a week, to be closer to work.

Most nights she stays in Wheatland, they all eat dinner together and Mr. Young and respondent jog together. Mr. Young believes respondent is now safe to practice medicine. He believes respondent is an honest person, and he is sure she will not use alcohol or drugs again.

Discussion

26. Respondent has taken positive steps in support of her alcohol and drug recovery and rehabilitation. She has maintained her sobriety since January 2, 2015. She sees a therapist and attends AA meetings. She has a job she enjoys. She exercises, and she surrounds herself with a support network of friends and colleagues, who can assist her in maintaining her sobriety. And, her peers view her as an excellent practitioner.

27. However, since the beginning, respondent's rehabilitation efforts have been under supervision. In April 2015, the Board contacted her for an interview, release of her medical records, and a mental evaluation. In November 2015, the Board issued the Accusation. When Feather River became aware of the incident, in early 2016, respondent was referred to the Well-Being Committee, and her behavior came under even greater scrutiny. As such, little weight can be placed on the fact that she has followed a rehabilitation plan, because she was being actively monitored: exemplary behavior is to be expected.

28. More informative, in this case, was respondent's testimony, which lacked insight and awareness. First, respondent has only shared a sanitized version of the facts of the July 25, 2014 incident with Feather River, not an honest accounting of events. Second, respondent has not fully admitted her addiction to alcohol. Instead, she provided explanations for her alcohol and drug use, pointing to a particularly stressful two week period in July 2014. However, on July 25, 2014, respondent was within six (6) days of completing her locum tenes contract and walking away from Mercy forever, regardless. Third, respondent never acknowledged the potential risk of her behavior on others or a desire to ameliorate that harm for the benefit of others. Finally, respondent never articulated any real self-reflection regarding her behavior.

29. Respondent's actions on July 25, 2014, evidenced extremely poor judgment and a lack of concern for others. She was under the influence of both alcohol and prescription drugs when she drove to work and was scheduled to treat a patient. She was fortunate not to have seriously injured or killed someone when she drove, or harmed her patient while providing diagnosis and treatment. She is a doctor, trained to know the effect of alcohol and drugs on the body and mind, and yet she still took the chance with her life and the lives of others. Also problematic, this was not an unforeseen incident. She admitted to drinking large amounts of wine on an almost daily basis during the two weeks prior to July 25, 2014, but she never sought help or reflected on her behavior in time to prevent the events of July 25, 2014. For these reasons, it would be premature to allow respondent to engage in unrestricted medical practice at this time.

30. The above matters having been considered, it was established that respondent consumed alcohol and prescription drugs on July 25, 2014, to an extent, or in such a manner

as to be dangerous or injurious to herself or to the public. She was clearly impaired on July 25, 2014, but she did not recognize her altered and impaired state of being, and drove to work to treat a patient; and attempted to drive home too.

31. Given the alcohol and prescription drugs respondent consumed on July 25, 2014, and the seriousness of her conduct, posing a danger to both herself and the public, and in order to ensure that the public is adequately protected, respondent's license should be placed on probation for five years under the minimum penalty recommended in Board Disciplinary Guidelines for a violation of Business and Professions Code section 2239. However, it is unnecessary and no public interest would be served by imposing a 60-day suspension of respondent's license per the Guidelines.

LEGAL CONCLUSIONS

1. Business and Professions Code, section 2234, requires the Board to "take action against any licensee who is charged with unprofessional conduct."

2. Business and Professions Code section 2239, subdivision (a) provides:

The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

3. Cause exists for disciplinary action under Business and Professions Code, section 2234, as defined by section 2239, subdivision (a), by reason of the matters set forth in Factual Findings 3 through 8. Respondent used alcoholic beverages to the extent, or in such manner as to be dangerous or injurious to herself and to the public.

4. The matters set forth in Factual Findings 9 through 31 were considered in making the following Order. It would not be contrary to the public interest to place respondent's license on probation for five years under minimum terms and conditions set forth in the Board Disciplinary Guidelines, except that no license suspension should be imposed.

ORDER

Physician's and Surgeon's Certificate No. A 66187 issued to respondent Alison Bevan, M.D. is REVOKED. However, the revocation is STAYED, and respondent is placed on probation for five years, upon the following terms and conditions:

1. Controlled Substances - Abstain From Use. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide respondent with a hearing within 30 days of the request, unless respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of such a request, the notification to cease practice shall be dissolved.

2. Alcohol - Abstain From Use. Respondent shall abstain completely from the use of products or beverages containing alcohol.

If respondent has a confirmed positive biological fluid test for alcohol, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide respondent with a hearing within 30 days of the request, unless

respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of such a request, the notification to cease practice shall be dissolved.

3. Biological Fluid Testing: Respondent shall immediately submit to biological fluid testing, at respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board or its designee. The Board may order a respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the respondent.

During the first year of probation, respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five (5) years, respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

Prior to practicing medicine, respondent shall contract with a laboratory or service, approved in advance by the Board or its designee, that will conduct random, unannounced, observed, biological fluid testing and meets all the following standards:

- (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.
- (b) Its specimen collectors conform to the current United States Department of Transportation Specimen Collection Guidelines.
- (c) Its testing locations comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.
- (d) Its specimen collectors observe the collection of testing specimens.
- (e) Its laboratories are certified and accredited by the United States Department of Health and Human Services.
- (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day of receipt and all specimens collected shall be handled

pursuant to chain of custody procedures. The laboratory shall process and analyze the specimens and provide legally defensible test results to the Board within seven (7) business days of receipt of the specimen. The Board will be notified of non-negative results within one (1) business day and will be notified of negative test results within seven (7) business days.

- (g) Its testing locations possess all the materials, equipment, and technical expertise necessary in order to test respondent on any day of the week.
- (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.
- (i) It maintains testing sites located throughout California.
- (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the respondent to check in daily for testing.
- (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff access to drug test results and compliance reporting information that is available 24 hours a day.
- (l) It employs or contracts with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.
- (m) It will not consider a toxicology screen to be negative if a positive result is obtained while practicing, even if the respondent holds a valid prescription for the substance.

Prior to changing testing locations for any reason, including during vacation or other travel, alternative testing locations must be approved by the Board and meet the requirements above.

The contract shall require that the laboratory directly notify the Board or its designee of non-negative results within one (1) business day and negative test results within seven (7) business days of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and respondent.

If a biological fluid test result indicates respondent has used, consumed, ingested, or administered to herself a prohibited substance, the Board shall order respondent to cease practice and instruct respondent to leave any place of work where respondent is practicing medicine or providing medical services. The Board shall immediately notify all of respondent's employers, supervisors and work monitors, if any, that respondent may not practice medicine or provide medical services while the cease-practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited substance use exists, the Board shall lift the cease-practice order within one (1) business day.

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his or her treating physician(s), other health care provider, or group facilitator, as applicable.

For purposes of this condition, the terms "biological fluid testing" and "testing" mean the acquisition and chemical analysis of a respondent's urine, blood, breath, or hair.

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by respondent and approved by the Board, alcohol, or any other substance the respondent has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, respondent has committed a major violation, as defined in section 1361.52(a), and the Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance respondent's rehabilitation.

4. Professionalism Program (Ethics Course). Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. Clinical Diagnostic Evaluations and Reports: Within thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board certified physician and surgeon. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of physicians and surgeons with substance abuse disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether respondent has a substance abuse problem, whether respondent is a threat to herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to respondent's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that respondent is a threat to herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.

In formulating his or her opinion as to whether respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors: respondent's license type; respondent's history; respondent's documented length of sobriety (i.e., length of time that has elapsed since respondent's last substance use); respondent's scope and pattern of substance abuse; respondent's treatment history, medical history and current medical condition; the nature, duration and severity of respondent's substance abuse problem or problems; and whether respondent is a threat to himself or herself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five (5) business days of receipt to determine whether respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on respondent based on the recommendations made by the evaluator. Respondent shall not be returned to practice until she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that she has not used, consumed, ingested, or administered to herself a prohibited substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic evaluation, including any and all testing deemed necessary by the examiner, the Board or its designee, shall be borne by the licensee.

Respondent shall not engage in the practice of medicine until notified by the Board or its designee that she is fit to practice medicine safely. The period of time that respondent is not practicing medicine shall not be counted toward completion of the term of probation. Respondent shall undergo biological fluid testing as required in this Decision at least two (2) times per week while awaiting the notification from the Board if he or she is fit to practice medicine safely.

Respondent shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified by the Board or its designee.

6. Psychotherapy. Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over

respondent's license and the period of probation shall be extended until the Board determines that respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7. Substance Abuse Support Group Meetings: Within thirty (30) days of the effective date of this Decision, respondent shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which he or she shall attend for the duration of probation. Respondent shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meeting shall have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with respondent within the last five (5) years. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The facilitator shall provide a signed document to the Board or its designee showing respondent's name, the group name, the date and location of the meeting, respondent's attendance, and respondent's level of participation and progress. The facilitator shall report any unexcused absence by respondent from any substance abuse support group meeting to the Board, or its designee, within twenty-four (24) hours of the unexcused absence.

8. Worksite Monitor for Substance-Abusing Licensee: Within thirty (30) calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring the respondent at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board or its designee. If it is impractical for anyone but respondent's employer to serve as the worksite monitor, this requirement may be waived by the Board or its designee, however, under no circumstances shall respondent's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms and conditions of respondent's disciplinary order and agrees to monitor respondent as set forth by the Board or its designee.

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with respondent in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding respondent's behavior, if requested by the Board or its designee; and review respondent's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and respondent's employer or supervisor within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board or its designee within one (1) hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee which shall include the following: (1) respondent's name and Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3) the worksite monitor's license number, if applicable; (4) the location or location(s) of the worksite; (5) the dates respondent had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of respondent's work attendance; (8) any change in respondent's behavior and/or personal habits; and (9) any indicators that can lead to suspected substance abuse by respondent. Respondent shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, or its designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

If the worksite monitor resigns or is no longer available, respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If respondent fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

9. Notice of Employer or Supervisor Information: Within seven (7) days of the effective date of this Decision, respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the Board, respondent's worksite monitor, and respondent's employers and supervisors to communicate regarding respondent's work status, performance, and monitoring.

For purposes of this section, "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, when the respondent has medical staff privileges.

10. Notification. Within seven (7) days of the effective date of this Decision, respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

11. Supervision of Physician Assistants. During probation, respondent is prohibited from supervising physician assistants.

12. Obey All Laws: Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

13. Quarterly Declarations: Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

14. General Probation Requirements:

Compliance with Probation Unit - Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision:

Address Changes - Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice - Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence.

unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal - Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California - Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

15. Interview with the Board or its Designee: Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

16. Non-practice While on Probation: Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

17. Completion of Probation: Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

18. Violation of Probation Condition for Substance-Abusing Licensees: Failure to fully comply with any term or condition of probation is a violation of probation.

A. If respondent commits a major violation of probation as defined by section 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

- (1) Issue an immediate cease-practice order and order respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at respondent's expense. The cease-practice order issued by the Board or its designee shall state that respondent must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of determining the length of time a respondent must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until notified in writing by the Board or its designee that he or she may do so.
- (2) Increase the frequency of biological fluid testing.
- (3) Refer respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

B. If respondent commits a minor violation of probation as defined by section 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

- (1) Issue a cease-practice order;
- (2) Order practice limitations;
- (3) Order or increase supervision of respondent;
- (4) Order increased documentation;


- (5) Issue a citation and fine, or a warning letter;
- (6) Order respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at respondent's expense;
- (7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (d).)

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke respondent's probation if he or she has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

19. License Surrender: Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

20. Probation Monitoring Costs: Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

DATED: November 10, 2016

DocuSigned by:

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ERIN R. KOCH-GOODMAN
Administrative Law Judge
Office of Administrative Hearings

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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2014-008590

13 **ALISON BEVAN, M.D.**
Feather River Hospital - Cancer
5629 Canyon View Drive, Suite A
Paradise, CA 95969

ACCUSATION

14
15 Physician's and Surgeon's Certificate No. A 66187
16 Respondent.

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18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).
24 2. On or about August 7, 1998, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 66187 to ALISON BEVAN, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein
27 and will expire on November 30, 2017, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2239 of the Code states:

“(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee

1 to practice medicine safely or more than one misdemeanor or any felony involving the use,
2 consumption, or self-administration of any of the substances referred to in this section, or any
3 combination thereof, constitutes unprofessional conduct. The record of the conviction is
4 conclusive evidence of such unprofessional conduct.

5 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
6 deemed to be a conviction within the meaning of this section. The Medical Board may order
7 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the
8 denial of the license when the time for appeal has elapsed or the judgment of conviction has been
9 affirmed on appeal or when an order granting probation is made suspending imposition of
10 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
11 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,
12 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or
13 indictment.”

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Use of Alcoholic Beverages, to the Extent, or in such a Manner as to be Dangerous or 16 Injurious to the Licensee, or to Any Other Person or to the Public)**

17 6. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
18 by section 2239, of the Code, in that Respondent used alcoholic beverages to the extent, or in
19 such a manner, as to be dangerous or injurious to herself, another person, and/or the public as
20 more particularly alleged as follows:

21 7. On or about July 25, 2014, Respondent was driving herself to work at Mercy San Juan
22 Hospital. While Respondent was within the parking lot, she was observed by witnesses at the
23 scene to be under the influence of alcohol. She did not report to work on this date but instead
24 went home in a taxi.

25 8. In a subsequent interview with the Board investigator, Respondent believed that she
26 was under the influence of alcohol and Xanax on the day of the incident. She had a valid
27 prescription for the Xanax. She referred herself for psychiatric evaluation and sought treatment.

28 9. Respondent was also evaluated by a Board psychiatrist who concluded that
Respondent was impaired during the incident and that Respondent is presently undergoing

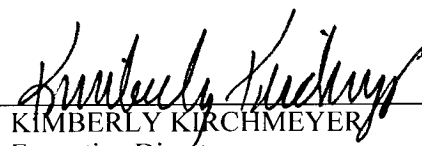
1 treatment and is largely in remission. The Board psychiatrist did not find any signs that
2 Respondent's ability to practice medicine safely is impaired at the present time, or if her diagnosis
3 impacted her ability to practice medicine safely. However, the Board psychiatrist found that there
4 is still some risk of relapse as Respondent is early in her recovery. The Board psychiatrist
5 recommended continued treatment and monitoring so that Respondent can continue to practice
6 medicine without posing a risk to patients. Respondent is still at risk for relapse of the
7 alcohol/Xanax episode because she is still in the early stages of her recovery program.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Medical Board of California issue a decision:

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 66187,
12 issued to ALISON BEVAN, M.D.;
- 13 2. Revoking, suspending or denying approval of ALISON BEVAN, M.D.'s authority to
14 supervise physician assistants, pursuant to section 3527 of the Code;
- 15 3. Ordering ALISON BEVAN, M.D., if placed on probation, to pay the Board the costs
16 of probation monitoring; and
- 17 4. Taking such other and further action as deemed necessary and proper.

18
19 DATED: November 25, 2015


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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